HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25824 OF 2007

Dated:04.12.2007

Between:

M/s. Godrej Saralee Limited,
Regd., Office at Pirojsha Nagar,
Eastern Express Highway,
Vikhroli, Mumbai & Its Branch Office
at 10-1/2,3,4 & 5, Ground Floor,
Ramanthapur, Hyderabad, rep., by its
Authorized Signatory.

..Petitioner

And

1. The Assistant Commissioner (CT)(LTU)
Secunderabad Division, Hyderabad
and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25824 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the act of the 1st respondent in issuing the garnishee notice dated 23.11.2007 to the 3rd respondent as illegal and to set aside the same and to interdict the 1st respondent from proceeding further in pursuant to the Garnishee notice.

The main grievance of the petitioner is that an appeal has been preferred before the 2nd respondent aggrieved by the assessment order passed by the 1st respondent and along with the said appeal, an application for stay has also been filed and the same is pending consideration. While so, the 1st respondent issued impugned garnishee notice to the 3rd respondent herein calling upon to pay the disputed tax from the Bank account operated by the petitioner. Aggrieved by the same, the present writ petition is filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that an appeal and the stay application filed before the 2nd respondent are

pending before the 2nd respondent and at that stage, the issuance of the garnishee notice is contrary to law and therefore, the impugned garnishee notice is liable to be set aside.

In the facts and circumstances of the case and in view of the pendency of the appeal as well as the stay application before the 2nd respondent, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions.

At this stage, it is the contention of the learned Counsel for the petitioner that if the garnishee notice is not revoked, it is much difficult to operate the account to meet the regular transactions and also to comply with the order of this Court.

In view of the above submission, We deem it appropriate to revoke the garnishee notice so as to enable the petitioner to continue the operation of the account and comply with the conditions that would be imposed while granting stay by this Court.

Accordingly, the impugned garnishee notice be revoked. There shall be interim stay of recovery of the disputed tax till the disposal of the appeal pending before the 2nd respondent subject to the condition of the petitioner depositing 50% of the disputed tax within a period of four (4) weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum. It is further made clear that in case of non-compliance of the above order, the garnishee notice becomes operative.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 4th December, 2007
Note:
Communicate by wire
At partys costs.
(BO)
Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
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WRIT PETITION No:25824 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

04/12/2007